

1 other time during the license period.

2 Q I'm going to ask you some questions about paragraphs
3 13 through -- paragraphs 13 through 16 of your testimony.

4 Now, here you discuss an argument that was made in the
5 Opposition to the Petition to Deny, is that correct?

6 A That's right.

7 Q Now, if you could turn to the Opposition to the
8 Petition to Deny, which is Attachment 7 of Mr. Stortz's
9 Testimony, Church Exhibit 4, and if you could turn to page 12?
10 Is that the beginning of the portion of the argument that you
11 are referencing in your Direct Testimony?

12 A I believe so. I -- there may have been an intro-
13 duction where I made a reference to this argument, but this is
14 the beginning of the substantive arguments.

15 Q Okay. And, and would you agree that that argument
16 ends on page -- stamped page 16?

17 A Yes. I would agree.

18 Q Okay. Would you describe any role that staff of the
19 Church or the stations had in preparation of the -- this
20 argument?

21 A My memory is that when the Petition to Deny was
22 filed against the Church's stations -- I'm sorry, the Church's
23 License Renewal Applications, I had a number of conversations
24 with Dennis Stortz exploring a number of responses that might
25 be made. As I recall, I asked Dennis whether there were any

1 particular positions at the stations that required certain
2 specialized skills or background, and Dennis said that there
3 were and described those for me. As a result -- and
4 they're --

5 Q Let me stop you for one second before you move on.

6 A Okay.

7 Q Did you ask him whether there were any requirements
8 specifically?

9 A I can't remember the exact words. I think that I
10 used the word "requirements." That was my understanding --

11 Q And --

12 A -- that you were talking about requirements.

13 Q And your recollection is that he, he referred to
14 the, to the classical music knowledge as a requirement?

15 A That came to be my understanding. I -- again, I
16 can't remember the exact substance of the conversation I had
17 with Dennis.

18 Q Okay. I'm sorry to have interrupted --

19 A No, that's okay.

20 Q -- you. You could go on.

21 A Let's -- I'm trying to remember where I had left
22 off.

23 Q You, you indicated that Mr. -- that you asked Mr.
24 Stortz whether there were any, any positions that required
25 specialized skills, and then he said that there were.

1 A As I recall, he said that there were, and we dis-
2 cussed what those positions were and he explained to me why
3 these particular skills were necessary to perform the particu-
4 lar jobs in question. And, again, I don't remember the pre-
5 cise sequence or precise conversations, but over the course of
6 preparing an Opposition to the Petition to Deny Mr. Stortz
7 sent me some materials listing employees that had been hired
8 for different positions. I think in a combination of corre-
9 spondence and, and conversations with Mr. Stortz I identified
10 the positions that apparently required these specialized
11 skills or background and then drafted the Opposition as well
12 as the Table 3 where, where a listing of employees is set
13 forth and asterisks are included designating employees that
14 had to have certain of these specialized skills or background.

15 Q Now, at the time that you had both the, both the --
16 with Mr. Stortz, did you discuss with him the argument that
17 you later made in the Opposition to Deny -- to Petition to
18 Deny?

19 A Yes, I think I did. Over the course of these
20 conversations I think I told him that I thought a reasonable
21 and persuasive argument could be made that for those positions
22 that required specialized skills it might not be appropriate
23 to look at overall labor force availability but that consider-
24 ation of alternative data might be a more precise measure of
25 availability. I think I also told him that Arnold & Porter

1 had been involved in prior cases raising EEO questions where
2 similar arguments had been advanced.

3 Q Was, was the idea of using the argument, did that
4 come from you or from Mr. Stortz?

5 A It came from me.

6 Q And what was his response when you told him about
7 the argument you planned to make?

8 A Well, I don't recall his precise response. At, at
9 some point at this proceeding evolved and it was clear that
10 this argument had, in my view, been misunderstood or miscon-
11 strued, I had at least one conversation with Dennis and possi-
12 bly others at the station in which a question was raised by
13 station staff as to whether this argument had antagonized the
14 NAACP or FCC staff, and I believe my reply was that apparently
15 it had or possibly it had but that I still considered it to be
16 a legitimate argument.

17 Q Why did those persons on the station staff think
18 that the argument had offended people at the NAACP or the
19 Commission?

20 A I believe that in a filing -- a letter filing made
21 by the NAACP, I think it was in 1992, commenting on a number
22 of the responses that the Church had filed in response to FCC
23 inquiries in this proceeding. The NAACP raised questions
24 about -- both about the legitimacy of the requirements that
25 were described as well as suggesting that the existence of

1 such requirements and possibly of the argument that it made
2 raised questions about the Church's intentions in, in fulfill-
3 ing its EEO obligations. So, I believe at least in connection
4 with that filing made by the NAACP in 1992, certainly once the
5 Hearing Designation Order was issued, it was explicitly stated
6 that, that this argument raised concerns, and there may have
7 been other, other reasons why we felt that this seemed to be
8 troubling. I, I can't remember.

9 I had had some conversations with Mr. Honig over the
10 telephone over the course of these proceedings and perhaps the
11 issue was raised in those conversations.

12 Q In this argument that you made beginning at page 12
13 of the Opposition -- stamped page 12 -- it's page 7 of the, of
14 the actual Opposition pleading, in that argument you cite
15 certain statistics. I believe beginning at page 15 where it
16 -- and I'm talking about classical music knowledge at this
17 point -- where it begins, "Similarly, KFUD is not aware of any
18 specific statistics..." Do you see that language?

19 A Yeah.

20 Q Now, you went on to cite certain statistics in that
21 argument, correct?

22 A That's right.

23 Q And those statistics were based on the listenership
24 of KFUD-FM?

25 A That's right.

1 Q Now, where did you -- what was the source of these
2 statistics?

3 A The statistics on listenership of KFUD-FM was some-
4 thing called the Media Audit in St. Louis. I was provided the
5 -- that audit information by staff at Station KFUD. As I
6 recall, I was faxed a page or two from what I gather was a
7 larger document that set forth the statistics that are includ-
8 ed here.

9 Q So, that would be like a ratings -- like ratings?

10 A I don't recall now what my understanding was of what
11 this organization was. I believe at the time Dennis Stortz or
12 someone else at the station explained to me exactly what the
13 organization was and how it operated.

14 Q And presumably it broke down the demographics of the
15 listenership of the station's --

16 A That's right.

17 Q -- background? Now, why did you think that use of
18 these statistics about the listenership of KFUD would be
19 analogous to the argument that you were trying to make?

20 A I believe that if -- in that we were trying to
21 establish some measure of the availability of persons with
22 classical music expertise or background or substantial knowl-
23 edge that one at least very rough measure, and in fact I
24 believed probably a measure that would overstate the
25 availability, would be a measure of persons who listen to the

1 only full-time classical music station in the city. I assumed
2 that persons who have expertise or interest or knowledge about
3 classical music would likely in many cases listen to the only
4 full-time classical music station in the city.

5 Q Now, you indicated earlier that you had discussed
6 with people on the staff of the station the fact that you
7 thought that this argument was sound. Did you ever discuss
8 with anyone at the Church or the station staff the fact that
9 you were going to use these statistics as an analogy in sup-
10 port of your argument?

11 A The statistics on listenership?

12 Q That's correct.

13 A I'm not sure I would characterize their use as --
14 I'm, I'm not sure I would characterize them as having been
15 used as an analogy. They were some indication of what an
16 appropriate measure might be. Are you asking whether I had
17 discussed whether I intended to use these specific statistics?

18 Q That's right. That's right.

19 A Well, I'm certain that I did. I -- as I said, I
20 received the statistics from the station's staff and worked
21 closely with the staff in, in formulating this, this pleading.

22 Q Do you have any recollection of specific discussions
23 about it with people on the staff?

24 A Specifically about the use of these statistics?

25 Q That's right. That's correct.

1 A I have a very vague memory at the time that I was
2 working on this of discussing it generally with Dennis Stortz,
3 but I, I can't really remember the substance of what was said.

4 Q Now, it's correct, isn't it, that -- pardon me -- in
5 order to make this argument you needed to establish that, that
6 classical music knowledge was a requirement for certain
7 positions, is that correct?

8 A That's right.

9 Q And do you know today whether classical music
10 knowledge was a requirement for certain positions at the
11 station at that time?

12 A Do I know today whether it's a requirement?

13 Q Yes.

14 A I think --

15 MS. SCHMELTZER: Whether it was a requirement back
16 during the license term?

17 MS. LADEN: That's right. I should, I should
18 rephrase that.

19 BY MS. LADEN:

20 Q Did there come a time when you learned that classi-
21 cal music knowledge was not a requirement at the time when
22 this pleading was filed?

23 A In retrospect, in light of all that has gone on, I
24 wish that I had used another word, and the word "requirement"
25 might be an overstatement. I, I continue to understand that

1 | it is a factor that the Commission -- that -- I'm sorry, that
2 | the station seeks and wants and looks for and it -- only if it
3 | can't find persons with the required -- that -- I shouldn't
4 | use the word "required" -- with that background that occa-
5 | sionally people without the background have been hired. In
6 | light of that I think the word "requirement" was probably an
7 | overstatement.

8 | Q Okay. In light of that fact, would you think the
9 | use of the argument is still sound?

10 | A I think it's still a legitimate point to make. The,
11 | the very point is that it's difficult to find people with that
12 | background and that there is not a great availability of any
13 | race, and so the fact that the station hasn't been able to
14 | find people with, with this background in all cases I don't
15 | think undermines the point that was being made.

16 | MS. LADEN: Your Honor, I wonder before I leave this
17 | particular area whether I could have just a couple minutes off
18 | the record? I, I'd like to review my notes.

19 | JUDGE STEINBERG: Okay. We'll go off the record.

20 | (Off the record.)

21 | (On the record.)

22 | JUDGE STEINBERG: Back on the record.

23 | BY MS. LADEN:

24 | Q When did you learn that -- well, first of all, let
25 | me direct your attention to page -- stamped page 13 of the

1 Opposition to Petition to Deny which, again, is in Attachment
2 7. Now, if you could read to yourself the first sentence in
3 that -- on that page beginning with, "Given the specialized
4 nature..."?

5 A Okay.

6 Q Now, there came a time when you learned that that
7 statement was not accurate, is that correct?

8 A I, I might say that to call it not accurate is
9 perhaps overstating, that, that this might have been overstat-
10 ing it.

11 Q Okay. When did you learn that?

12 A With reference to the classical music aspect?

13 Q That's correct.

14 A I, I'm not certain. I believe either in one of Mr.
15 Honig's filings, possibly the 1992 letter that I referred to
16 letter.

17 JUDGE STEINBERG: You, you mean Mr. Honig? That was
18 where he responded to several of the Church's answers?

19 WITNESS: That's right. Possibly in that pleading.
20 Possibly in one of the letters of inquiry from the Commission
21 a question was raised as to whether every Sales person at
22 KFUC-FM had classical music expertise. I believe as a result
23 of that question being raised by whomever, and I don't remem-
24 ber now who, I think that might have been the first time that
25 I had thought about that question and possibly talked to the

1 station staff.

2 BY MS. LADEN:

3 Q And the station staff told you that there were
4 certain position Sales people who did not have classical music
5 training?

6 A I think that's right. I'm not certain, but I think
7 that's right. It's, it's possible I knew it before. That,
8 that's sort of the first memory I have focusing on it.

9 Q At the time when you learned that, did you consider
10 correcting the statement at page 13?

11 A Again, my memory is really weak. On further
12 thought, I, I think maybe the first pleading that I made
13 following my focusing on this aspect might have been the
14 response to the FCC's final letter of inquiry to the Church,
15 and I believe in that pleading there was included an affidavit
16 from Dennis Stortz where this point was addressed, that the
17 point about the use of the word "requirement" and the fact
18 that not every Sales person had this knowledge.

19 Q Okay. Now --

20 JUDGE STEINBERG: Just to, to firm this up, could
21 Ms. Cranberg be referred to whatever document that is and,
22 and --

23 MS. LADEN: That's Mass Media Bureau Exhibit 14.

24 JUDGE STEINBERG: Yep. Why don't you skim that and
25 point to what -- see if that refreshes your memory. And then

1 if it, and then if it, if it, if it confirms what you've just
2 stated, why don't you point to where it confirms it. And
3 that's a long document. So, if you -- you know, if you want a
4 period of time to look through, we'll go off the record and
5 allow your, your review.

6 WITNESS: I believe I can pinpoint the section of
7 Dennis Stortz's affidavit, which was an attachment to this,
8 that I was referring to. I was referring to numbered para-
9 graph 14 in the Dennis Stortz Affidavit --

10 JUDGE STEINBERG: That's hand-lettered --

11 WITNESS: -- which is the attachment.

12 JUDGE STEINBERG: -- page 63.

13 WITNESS: That's right. Carried over to 64. As I
14 -- it, it might be helpful to me to review the Commission's
15 letter of inquiry that prompted this reply. It's possible
16 that that letter of inquiry raised this point and that may
17 have been what prompted my focusing on it.

18 MS. LADEN: Look at Mass Media Bureau Exhibit 13.
19 That may be the --

20 WITNESS: I guess that doesn't help me much.

21 JUDGE STEINBERG: Well, paragraph 1 addresses the
22 expert can be filled -- paragraph that's been -- that's num-
23 bered 1 on page 1 refers to either expertise in classical
24 music -- so, I guess the Commission was asking about that?

25 WITNESS: Um-hum. Yeah. Well, I guess I have

1 nothing further to add in response to your question.

2 BY MS. LADEN:

3 Q At some point after you drafted the Opposition to
4 Petition to Deny, which is Attachment 7 of Exhibit 4, Church
5 Exhibit 4, did you send that document -- the, the version that
6 was filed with the Commission -- did you send that to anyone
7 at the stations to review?

8 A Did I send it to anyone at the stations --

9 Q Yes.

10 A -- to review? Prior to filing it?

11 Q Yes.

12 A Yes. I did. I sent it -- I know I sent it to
13 Dennis Stortz. I believe Dennis was the only person I sent it
14 to. I believe.

15 Q And it's correct, is it not, that Mr. Stortz exe-
16 cuted an affidavit which was attached to this Opposition, is
17 that correct?

18 A That's right.

19 Q And that affidavit is at page 53?

20 A That's right.

21 Q Now, after you sent this document to Mr. Stortz, did
22 he contact -- before you filed it did he contact you with any
23 questions or comments or, or changes?

24 A Once again, I don't have any memory of any specific
25 conversations but I have a vague memory that he and I

1 | discus-sed the draft that I had sent him and I responded to
2 | questions he raised or possibly made changes at his request.

3 | Q Did you ever discuss the language that we have been
4 | talking about, about the requirement for classical music?

5 | A Are you --

6 | Q The -- I'm specifically referring to the paragraph
7 | -- the first paragraph on page 13 of the Opposition.

8 | A Are you asking if we discussed generally this
9 | argument after I --

10 | Q I'm asking --

11 | A -- prepared the draft?

12 | Q -- whether he ever discussed with you the, the
13 | suggestion that only that the positions -- Sales positions
14 | could only be filled by persons with classical music
15 | knowledge?

16 | A I don't recall his discussing that aspect of it in
17 | particular.

18 | Q Okay. Now, if you look at that paragraph again, the
19 | first paragraph in page 13, did you draft that language or was
20 | that language drafted by the station?

21 | A I think I drafted it.

22 | Q If you could turn to Attachment 1 of your Testimony?
23 | Did you draft this document?

24 | A Either I drafted it or Reed Miller drafted it. Our
25 | practice was that he, he would draft some letters. I would

1 draft some letters. In my earlier years at the firm he would
2 sign all of the letters. In most recent years I would draft
3 and sign letters. But there was a period where I would, I
4 would draft some and he would sign them, so I'm not certain
5 which of us did this.

6 Q Okay. Do you recall whether you ever had a discus-
7 sion about this letter subsequent to sending it to the station
8 with anyone at the station?

9 A I don't recall whether I did or not.

10 Q If you could turn to Attachment 2 of your Testimony?
11 Did you draft that letter?

12 A Same answer as with respect to the previous letter.
13 I don't know.

14 Q And do you recall whether you ever discussed it with
15 anyone at the station?

16 A Again, I don't recall whether I did or not.

17 Q And could you look at Attachment 3 of your Testi-
18 mony? Did you draft this letter?

19 A I'm not certain if -- it's -- I, I have a vague
20 memory. Maybe I did, but I'm not certain.

21 Q Do you recall whether you ever had a discussion
22 about it with anyone at the station?

23 A Again, I don't recall whether I did or not. As I,
24 as I think I said earlier, I would get dozens of calls from
25 clients probably a week, so I, I can't remember every call

1 that I got.

2 Q Okay. If you could look at Attachment 4 and tell me
3 whether you drafted that and if you ever had a discussion
4 about it with anyone at the station?

5 A I think I might have. I, I think I drafted this.
6 I'm not certain. It was not too long after this letter was
7 sent that I received a call from Tom Lauher that's referenced
8 in my written Testimony. I can't remember if he referred to
9 this letter in particular, but our conversation pertained to
10 EEO and renewal issues generally, and I don't know if I got
11 any other calls from the station in response to this or not.

12 Q Okay. If you could turn to Mass Media Bureau
13 Exhibit 17 and tell me whether you drafted that letter and
14 whether you had any discussion about it with anyone at the
15 station?

16 A Again, I'm not sure if I drafted this or Reed Miller
17 did, although I know -- I believe the signature is actually in
18 the handwriting of my secretary at the time, so I might have
19 drafted this. Again, I don't recall whether I had
20 conversations with the station or not in response to this
21 letter.

22 MS. LADEN: Your Honor, could we just have one
23 minute, please?

24 JUDGE STEINBERG: Off the record.

25 (Off the record.)

1 (On the record.)

2 JUDGE STEINBERG: Back on the record.

3 BY MS. LADEN:

4 Q If you could turn to NAACP Exhibit 46?

5 A I'm sorry. What number?

6 Q 46. That's the NAACP -- and could you tell me
7 whether you drafted that letter?

8 A Again, I'm not certain. I think, I think maybe I
9 did.

10 Q Do you recall whether you had any discussion about
11 it with anyone at the station?

12 A I don't recall whether I did or not.

13 Q Could you turn to NAACP Exhibit 47 and tell me
14 whether you drafted that letter?

15 A I believe I drafted this.

16 Q And do you recall whether you had any discussions
17 about it subsequently with anyone at the station?

18 A Same answer. I don't recall whether I did or not.

19 Q Now, could you turn to Mass Media Bureau Exhibit 22?
20 And could you tell me whether you drafted this letter?

21 A I think Reed Miller drafted this letter because he
22 refers to attendance at an NAB convention that I didn't
23 attend.

24 Q Do you recall having any discussion about this
25 letter with anyone at the staff of the stations?

1 A Same answer. I don't recall whether I did or not.

2 Q Now, if you could turn to the next exhibit, Mass
3 Media Bureau Exhibit 23, and tell me whether you drafted this?

4 A I think I drafted this.

5 Q Do you recall having a discussion about it with
6 anyone at the station?

7 A I don't recall whether I did or not.

8 MS. LADEN: Your Honor, could we have a couple
9 minutes? I think we're almost done but I wanted to consult
10 with counsel.

11 JUDGE STEINBERG: Okay. Off the record.

12 (Off the record.)

13 (On the record.)

14 JUDGE STEINBERG: We're back on the record.

15 BY MS. LADEN:

16 Q Ms. Cranberg, at -- on page 8 of your Testimony, the
17 end of that page, would you read to yourself the sentence, the
18 last sentence, which begins, "Based on these discussions..."?

19 A Okay.

20 Q What is the, what is the basis for that statement?

21 A I had numerous conversations with Dennis and possi-
22 bly some with Paula, and there was never any comment made to
23 me -- never to the effect that the misrepresentation had been
24 intentional or that the station felt that it had benefitted
25 from the error. There was never any sense that station staff

1 | were trying to hide anything from me or from the Commission.
2 | I, I -- it was simply an impression based on numerous conver-
3 | sations that I was dealing with very honest, very helpful,
4 | very nice people who had made a good faith mistake. I, I
5 | never had the slightest shadow of a doubt in my mind and, in
6 | fact, I was truly astonished when the question was raised as
7 | to whether the mistake could have been intentional, and it
8 | really hadn't entered my mind.

9 | MS. LADEN: I have no further questions. Thank you.

10 | MS. SCHMELTZER: I have no redirect, Your Honor.

11 | JUDGE STEINBERG: Okay. Let me -- Mr. Horton, as
12 | counsel representing the witness, you, you have the right, if
13 | you want to, to ask any questions of the witness that you
14 | believe would clarify any matters, and I want to give you an
15 | opportunity to do that if you wish.

16 | MR. HORTON: I have no specific questions unless Ms.
17 | Cranberg herself has anything that she thinks she could
18 | clarify.

19 | WITNESS: I can't think of anything.

20 | MR. HORTON: In that case I have no questions for
21 | her.

22 | JUDGE STEINBERG: Okay. Ms. Cranberg, you're
23 | excused. Thank you very, very much for testifying. We appre-
24 | ciate it.

25 | MS. SCHMELTZER: Can we have just a minute?

1 JUDGE STEINBERG: We'll go off the record.

2 (Off the record.)

3 (On the record.)

4 JUDGE STEINBERG: We're on the record now. Mrs.
5 Schmeltzer, does that complete your direct case?

6 MS. SCHMELTZER: Yes, it does, Your Honor. I
7 believe all our exhibits have been received. We do -- let me
8 just state for the record, there will be two joint exhibits.

9 I, I have labelled as proposed Joint Exhibit 1 a
10 stipulation. This lists all the managers during the license
11 period -- the, the General Managers, but in one instance we've
12 listed Mr. Lombardi, who was Director of Broadcast Ministries.
13 We've also listed Dennis Stortz's name both as Acting General
14 Manager and, and Operations, and Operations Manager. And I'll
15 be happy to show that.

16 The other joint exhibit would be the Reed Miller
17 Deposition, and we don't have signature pages back yet.

18 JUDGE STEINBERG: I meant to ask Mr. Horton when he
19 thought he'd be able to do that, but I forgot.

20 MS. SCHMELTZER: He was not feeling well the begin-
21 ning of this week. My understanding was they were going to
22 try to talk to him about it today, but since they've been in
23 here --

24 JUDGE STEINBERG: Yeah, I forgot to, I forgot to
25 ask. Is -- has everyone seen the stipulation?

1 MS. SCHMELTZER: No. Let me --

2 JUDGE STEINBERG: Why don't, why don't you distrib-
3 ute that and then we can come back to it later.

4 (Pause.)

5 MS. SCHMELTZER: I would just say with respect to
6 the proposed stipulation that we were asked to put in the
7 months and we feel pretty sure that they're correct, but it,
8 it is approximate -- specifically because people -- you know,
9 we didn't put in the actual dates. We put in the months, but
10 we don't have the actual dates. And if, if there was testimo-
11 ny from either Mr. Stortz or Mr. Lauher that's more specific,
12 then that should take precedence --

13 JUDGE STEINBERG: Govern -- then it should govern.

14 MS. SCHMELTZER: Right.

15 MR. HONIG: Your Honor, wasn't there -- I made --

16 JUDGE STEINBERG: I haven't got -- can I see the
17 document -- or, or, or was it appropriate for me to see it
18 before it's been stipulated to?

19 MR. HONIG: I don't mind. In fact, it would be
20 helpful.

21 (Pause.)

22 JUDGE STEINBERG: Oh, is -- are we prepared to talk
23 about this or do we, or do we need more time? If it's going
24 to be a matter of some controversy, I'd prefer to move on.

25 MR. HONIG: Maybe not controversy but just a

1 question.

2 JUDGE STEINBERG: Okay.

3 MR. HONIG: I may be recalling the testimony incor-
4 rectly, but did not Reverend Devantier testify that between
5 July 1989 and approximately October 1989 he served as Acting
6 General Manager? He's here. Maybe you can recall, but I
7 don't remember.

8 MS. SCHMELTZER: My understanding was that you were
9 interest-- I didn't think you were interested in having
10 Reverend Devantier in this as well, but if, if --

11 MR. HONIG: Well, if that was his title or function,
12 I think he should be listed so that it would be complete.

13 MR. ZAUNER: It's already in the record, I think --

14 MR. HONIG: Yeah.

15 MR. ZAUNER: -- Reverend Devantier's testimony.

16 MS. SCHMELTZER: As I said, I think the testimony
17 should govern if the specific individuals --

18 MR. HONIG: If we're going to accept a stipulation
19 for the truth of the matter asserted, we may as well have it
20 be complete. I just don't remember. And maybe the witness
21 who was here --

22 MS. SCHMELTZER: Well, I -- let me -- can I -- if I
23 may explain how this arose, I think it arose out of, out of
24 some of the interrogatory answers, which may have included
25 some -- and I don't recall whether they included all of the

1 | information, because it would depend on the specific question.

2 | MR. ZARAGOZA: This is literally correct. There was
3 | no Act-- he was not --

4 | MS. SCHMELTZER: I guess I --

5 | MR. ZARAGOZA: -- or Acting --

6 | MR. HONIG: Well --

7 | MS. SCHMELTZER: I think to the extent Reverend
8 | Devantier may have been Acting, it wasn't in a, in a formal --

9 | MR. HONIG: On Mr. Zaragoza's statement, I'll accept
10 | the stipulation for the truth of the matter asserted.

11 | MS. SCHMELTZER: Well, I guess -- my concern, Your
12 | Honor, is I did say that to the extent there's testimony in
13 | the record that that should govern. That's the witness's own
14 | testimony. This is based on my review of the records I have,
15 | but not -- it was a very quick review.

16 | MR. HONIG: Well, then, then I'll stipulate that
17 | it's the result of, of Mrs. Schmeltzer review.

18 | JUDGE STEINBERG: Okay. Here's what we'll do.
19 | You're willing to stipulate to Joint Exhibit 1 with the under-
20 | standing that if the written or oral testimony differs, the
21 | written or oral testimony governs?

22 | MR. HONIG: Yes.

23 | JUDGE STEINBERG: Mrs. Schmeltzer? You, you're
24 | willing to accept that?

25 | MS. SCHMELTZER: Yeah. Well, I could tell you just

1 one slight difference that I, I believe. Mr. Stortz is listed
2 as Acting General Manager in June '87. I don't believe his
3 Declaration states that. It's Mr. Stortz's recollection that
4 he must have been because there was no other one there at the
5 time. Mr. -- you know, I -- that's what he told me.

6 JUDGE STEINBERG: Well, it says approximately. Mr.
7 Zauner?

8 MR. ZAUNER: Does Ms. Schmeltzer -- Mrs. Schmeltzer
9 -- could she state the source of the information for this,
10 this stipulation?

11 MS. SCHMELTZER: Just the various -- both the
12 Answers to Interrogatories and the various documents that have
13 been filed in this pleading --

14 MR. ZARAGOZA: And the two witnesses.

15 MS. SCHMELTZER: -- and the witnesses.

16 MR. ZARAGOZA: Dennis --

17 MS. SCHMELTZER: Right. The witness -- Dennis --
18 Ms. -- Reverend Devantier and Dennis Stortz.

19 MR. ZAUNER: We have no objection to the stipula-
20 tion.

21 JUDGE STEINBERG: Okay. We'll -- the stipulation is
22 a one-page exhibit. It'll be identified as Joint Exhibit 1
23 and it's a stipulation re: general managers. That what we'll
24 -- that's what I'll call it.

25 MS. SCHMELTZER: With the caveat that Mr. Lombardi

1 was, was actually -- had a different title than General
2 Manager.

3 JUDGE STEINBERG: Okay. Well, we have to call it
4 something. Okay. It's -- the document described will be
5 identified as Joint Exhibit No. 1 and it will be received.

6 (Whereupon, the document referred to
7 as Joint Exhibit No. 1 was marked for
8 identification and received into
9 evidence.)

10 JUDGE STEINBERG: Okay. The reporter needs to get
11 two copies.

12 MS. SCHMELTZER: And I'm giving an original and one
13 copy to the reporter.

14 JUDGE STEINBERG: Thank you. Now, I guess then that
15 completes your direct case?

16 MS. SCHMELTZER: Then that -- yes, although there
17 will be --

18 JUDGE STEINBERG: But --

19 MS. SCHMELTZER: -- there'll be a Joint Exhibit 2.

20 JUDGE STEINBERG: The Reed Miller's --

21 MS. SCHMELTZER: The Reed Miller.

22 JUDGE STEINBERG: -- as expeditiously as that can be
23 filed?

24 MS. SCHMELTZER: Right.

25 JUDGE STEINBERG: Okay. And what, what, what you